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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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49845	7590	12/01/2006	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY			FELTEN, DANIEL S	
P.O. BOX 2938			ART UNIT	
MINNEAPOLIS, MN 55402			PAPER NUMBER	
			3693	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,719

Applicant(s)

INGRAHAM ET AL.

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/23/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the Amendment and Response filed August 23, 2006 amending claims 1, 20, 34. Claims 1-47 remain pending in the application and are presented to be examined upon their merits.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 8/23/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

3. The 35 USC 101 rejection is maintained. Supplemental Comments under are presented below for the applicant's convenience

--The 35 USC 112 1st paragraph Rejections are withdrawn.

--Applicant's arguments, see Amendment filed August 23, 2006 with respect to the rejection(s) of claim(s) 1, 3-10, 12-14, 17-20, 22-25, 27, 28, 31-42 and 44-47 under 35 U.S.C. § 102(e) using Broerman (US 6,594,633) have been fully considered and are persuasive. Therefore, the 35 U.S.C. § 102(e) rejection using Broerman (US 6,594,633) has been withdrawn. However, the examiner reserves the right to use Broerman in a combination 35 U.S.C. § 103(a) rejection. Also upon further consideration, a new ground(s) of rejections are provided below.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

--The claimed invention is directed to non-statutory subject matter. Claims 1-19, particularly claim 1, is directed to the manipulation of an abstract idea that has no apparent concrete or tangible result. The examiner has interpreted "*transaction request*" to mean "asking for" or "inquiring of" a transaction. Thus, receiving the transaction request, matching the transaction request with property profiles and providing a transaction request does not result in an actual transformation of information or the performance of an actual transaction [see MPEP 2106 II A].

--Claims 3, 4, 6 and 7 are directed toward non-functional descriptive material because they are not involved with how processing of information takes place [see MPEP 2106 IV 1(b)].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-10, 12-14, 17-20, 22-25, 27-28, 31-42 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,664,115) in view of Tozzoli et al (US 5,717,989)

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Fraser discloses a method receiving a plurality of property profiles from a plurality of responsible parties (see Abstract, column 4, lines 17-23; and column 5, lines 11-15), *as in claims 1, 20 & 34*

--receiving at least one transaction request from at least one requesting party(see column 7, lines 34-37), *as in claims 1, 20 & 34*

--matching the transaction request with the property profiles(S107)(see column 6, lines 40-48), *as in claims 1, 20 & 34*

--a machine readable medium having stored thereon instructions which when executed by a processor cause the machine to perform operations (see column 4, lines 61-67), *as in claim 20*

Fraser fails to disclose, providing the transaction request to the responsible parties of those properties that match the transaction request.

Tozzoli discloses a matching system where a buyer provides terms of a transaction to selected sellers based upon certain criteria (see Tozzoli, column 7, lines 11-33).

It would have been obvious for an artisan at the time the invention to modify the matching system of Fraser to provide the transaction request to the responsible parties as disclosed in the matching system of Tozzoli to allow sellers to accept, reject and/or change criteria so as to further matching and/or negotiations between buyer and sellers. Thus such a modification would be an obvious expedient well within the scope of the art.

--a bus (6), (see column 4, lines 6+)

--a storage device coupled to the bus (see column 4, lines 6+);

--a processor (CPU) coupled to the bus, the processor to execute software to cause the computer to perform operations comprising (see fig. 2, column 4, lines 43-67)

Fraser fails to disclose, as in claims 5 and 22, an offer received from at least one of the responsible parties to at least one of the requesting parties. Tozzoli discloses that the responsible parties are able to make offers to the requesting parties (see Tozzoli, column 7, lines 26-33). It would have been obvious to modify Fraser to allow an offer to be submitted from the responsible parties to the requesting parties, as described in Tozzoli, to further provide the Fraser invention with the ability for sellers to communicate and negotiate better terms with potential buyers. Thus such a modification would be considered an obvious expedient well within the ordinary skill of the art.

Fraser discloses, as in claims 8 and 23, a ranking based upon a plurality of criteria (see Fraser, "property listing", Abstract), but fails to disclose that the ranking is part of an offer. Tozzoli discloses ranking based upon an offer and certain criteria/terms (see Tozzoli, column 7, lines 10-33). It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Fraser to provide ranking of criteria based upon offers so as to communicate to sellers how much the buyer would be willing to pay for a particular property having certain features. From normal business practice between buyers and sellers in a negotiation process, one would expect buyers to favor certain features over others. Thus such modification would be an obvious expedient well within the ordinary skill in the art.

--receiving at least one unit information (see Fraser, column , lines), *as in claims 18, 32 and 45*

--wherein the matching engine is performed by a matching engine (S107), (see Fraser, fig. 5B, column 6, lines 41-48), *as in claim 35*

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--wherein the matching engine comprises of a plurality of software instructions, (see Fraser, fig. 3, column 5, lines 1-15) *as in claim 36*

Fraser fails to disclose, *as in claims 9, 24 and 37*, providing acceptance received from one of the requesting parties to one of the responsible parties.

Tozzoli discloses providing acceptance received from one of the requesting parties to one of the responsible parties, (see column 7, lines 26-33).

It would have been obvious for an artisan of ordinary skill in the art at the time of the invention was made to modify Fraser to provide an acceptance received from one of the requesting parties to one of the responsible parties to allow further communication and interaction/ interactivity between the buyer and the seller. Thus such a modification would further provide an indication of properties that would be filter or weeded out of the system(see column 10, lines 1-24). Such a modification would be an obvious expedient well within the ordinary skill of the art.

7. Claims 14, 19, 29, 33, 42 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,664,115) as modified by Tozzoli et al (US 5,717,989) as applied to claim 1 in further view of Broerman (US 6,594,633)

--Fraser as modified by Tozzoli discloses billing the responsible party a listing fee, but fails to disclose billing the responsible parties a success fee. Broerman (US 6,594,633) teaches a success fee (see column 7, lines 21-25; also see "sales verification", lines 54+), as in claims 14, 19, 29, 33, 42, 46. The sales verification, as taught in Broerman would have been an obvious

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extension to the teaching of Fraser as modified by Tozzoli in as much as one of ordinary skill in the art would seek to provide a verification of sale so as to indicate that a match and/or transaction had transpired.

--Fraser as modified by Tozzoli fails to disclose providing a property visit request received from one of the requesting parties. Broerman discloses providing a property visit request (see column 8, lines 9-19; and column 8, lines 31-38), *as in claims 10, 25 and 38*.

In buying and/or renting a property it is customary for the buyer to ask the seller/rentor to inspect the property before making a final decision on whether not to buy and/or actually rent the property. This concept is called, "Due diligence." In conventional business practice, it is conventional for a buyer/renter to perform due diligence by requesting a visit of the property to ensure that the property is what the seller/rentor has advertised the property to be and that the criteria of the buyer is met.

Thus it submitted that requesting a visit of the property would be an obvious extension to the teachings of Fraser as modified by Tozzoli to ensure criteria of the buyer is met.

--Fraser as modified by Tozzoli discloses a notification receiving lease execution notification from at least one of the responsible parties, (see column 8, lines 8-19; and also column 8, lines 31-38), *as in claims 12, 28 and 41*,

--receiving sale execution notification from at least one of the responsible parties, (see column 8, lines 8-19; and also column 8, lines 31-38), *as in claims 13, 28, 41*,

--providing a sequence of maps to prompt the requesting party to select at least one desired geographical location, (see column 8, lines 20+), *as in claims 17, 31 and 44*

8. Claims 2, 11, 21, 26 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,664,115) as modified by Tozzoli et al (US 5,717,989) and Broerman (US 6,594,633) as applied to claim 1 in further view of over in view of Walker et al (US 5,884,272)

Fraser as modified by Tozzoli and Broerman discloses hiding parts of the criteria used to filter buyers and sellers during the negotiation/filtering process, but fails to disclose anonymous communications such that an identity of the requesting party is hidden from the responsible party, *as in claims 2, 11, 21, 26 and 39.*

Walker discloses a discloses a system for establishing anonymous communications between parties (see Walker, Abstract, column 4, lines 19-27).

Walker discusses several motivations why one of ordinary skill in the art would seek anonymous communications (see Walker, column 1, line 36 to column 4, line 13; and column 4, lines 16 to column 6, line 23)

The anonymous features disclosed in Walker would have been obvious to extensions of the teachings of Fraser as modified by Tozzoli and Broerman to ensure the privacy of pertinent information associated with either the buyer and/or the seller. Thus such a modification would allow both parties to feel comfortable with the transaction. Thus such a modification would be considered an obvious expedient well within the ordinary skill in the art.

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9. Claims 15, 16, 30 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,664,115) as modified by Tozzoli et al (US 5,717,989) and Broerman (US 6,594,633) in further view of Eggleston et al (US 6,061, 660)

Fraser as modified by Tozzoli et al and Broerman fails to disclose receiving a request for a promotional reward from at least one of the requesting parties, *as in claims 15, 16, 30, and 43*

Eggleston disclose a method and system for providing programs over the Internet to offer incentive programs to customers (see Eggleston Abstract). It would obvious to combine Broerman and Eggleston to promote usage of the Fraser as modified by Tozzoli et al and Broerman over the Internet as well as increase sales as enunciated in the background of Eggleston (see Eggleston column 1, lines 27+). Thus such a modification would increase the amount of use of the Broerman invention and thus be an obvious expedient to one of ordinary skill in the art.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patents:

Walker et al (US 5,794,207) discloses a method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers.

Lalonde et al (US 5,283,731) discloses a computer-based classified ad system and method.

Walker et al (US 5,884, 272) discloses a method and system for establishing and maintaining user controlled anonymous communications

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Tornetta (US 5,032,989) discloses real estate search and location system and method

Janssen (US 5,754,850) discloses real estate method and apparatus for searching for homes in a search pool for exact and close matches according to primary and non-primary selection criteria

Luke et al (US 6,131,087) discloses a method for automatically identifying matching and near-matching buyers and sellers in electronic market transactions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel S Felten
Examiner
Art Unit 3624

DSF
11/7/ 2006



ELLA COLBERT
PRIMARY EXAMINER